85-1272

Supreme Court, U.S.
FILED
JAN 28 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

NO. _____

JEREMY MYER,

Petitioner,

v.

PACIFIC FEDERAL SAVINGS
AND LOAN ASSOCIATION,

Respondent.

SUPPLEMENTAL APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE STATE OF CALIFORNIA SUPREME COURT

Part 3 of 4

JEREMY MYER
16783 Beach Boulevard
Huntington Beach, CA 92647
714/841-8104
Petitioner, In Pro Se

OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	Civil Action No. AP-4726
v.	[Former No. AP-4482]
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	
JEREMY MYER, et al., Appellant,	
v.	APPELLANT'S OPENING BRIEF
PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Appellee.	

On Appeal from Default Judgment, Proceedings, and Decisions in the Municipal Court of Orange County, North Orange County Judicial District, State of California,...
[Municipal Court CASE NO: A 73032]

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I

INTRODUCTION

...[MYER] was occupant of the subject property with his family and purchased said subject property at the Trustee's Sale on October 28, 1983, in full and complete accordance with the NOTICE OF TRUSTEE'S SALE dated September 27, 1983, in which [Pacific] was BENEFICIARY. MYER filed suit in the Orange County Superior Court (CASE NO. 41-72-38) to perfect his claim, and [Pacific] is one of the defendants therein, and the Municipal Court was advised appropriately.

[PACIFIC] brought an Unlawful Detainer action against JOHN RAY WOELKE, hereinafter referred to as "WOELKE", and DOES 1-10, inclusive.

MYER documented throughout the proceedings that he was the purchaser of the

property and, therefore, could not be lawfully put out; that due to his purchase, the matter was clearly beyond the jurisdiction of the Municipal Court; that there were insufficiencies of service of the Three-Day Notice to Quit and the various Summonses and Complaints, thereby also denying the Municipal Court proper jurisdiction to proceed and denying PACIFIC any valid cause(s) of action; that PACIFIC had not perfected title prior to the Three-Day Notice to Quit, further denying the Municipal Court any jurisdiction as well as denying PACIFIC any valid cause(s) of action; that in view of MYER's purchase, PACIFIC was unable to 'perfect title' legally or lawfully, and certainly not for the Municipal Court action; that his "SPECIAL APPEARANCES" did not give jurisdiction to the Municipal Court, which proceeded over his

objections; that subsequent service of the Summonses and Complaints, being invalid both as to their own service and their pre-requisite for a valid Three-Day Notice to Quit, still did not give the Municipal Court jurisdiction to proceed; therefore, based on the foregoing, the decisions of the Municipal Court against MYER were improper and lacking jurisdiction, and, therefore, also lacking proper legal or lawful enforcement; that MYER, et al., were not in DEFAULT, as the Municipal Court so found; that MYER's attempts for proper adjudication of the ISSUES OF LAW, FACT, AND PROCEDURE both at the Municipal Court level and at the Orange County Superior Court level were effectively ignored, as were such ISSUES OF LAW, FACT, AND PROCEDURE themselves, (see Orange County Superior Court CASE NO. 42-14-46, PETITIONs FOR WRIT OF

MANDATE / PROHIBITION / JUDICIAL REVIEW/ JUSTICE and MOTION FOR ORDER FOR ABATEMENT OR IN THE ALTERNATIVE STAY OF MUNICIPAL COURT PROCEEDINGS, all served on the Respondent Municipal Court and the Judges therein); that PACIFIC, by bringing the Unlawful Detainer action, and/or pursuing it, acted under the principles of vexatious harassment and invalid multiplicity of suit due to the same or similar cause(s) of action by and between (essentially) the same parties (again, see the Orange County Superior Court CASE NO. 42-14-46), and that the Municipal Court was fully apprised accordingly; that the Municipal Court effectively adjudicated a title issue which was beyond its scope of jurisdiction; that the Municipal Court effectively and knowingly proceeded with the summary proceeding of Unlawful Detainer

where the ISSUES OF LAW, FACT, AND PROCEDURE were clearly beyond the nature of such summary proceeding; that the ORDER FOR WRIT OF POSSESSION BY CLERK - UNLAWFUL DETAINER was invalid, improper, lacking jurisdiction, and, therefore, insufficient as to any legal or lawful base; that, therefore, the MARSHAL'S OFFICE NOTICE TO VACATE, with its threat of 'forcible eviction', also had no jurisdictional base and/or legal or lawful sufficiency for its issuance; it appears that PACIFIC attempted to 'perfect title'; that there were other irregularities in the proceedings and in the Municipal Court file; and that MYER AND HIS FAMILY HAVE BEEN SIGNIFICANTLY DAMAGED AS TO PROPERTY AND RIGHTS --- CONSTITUTIONAL, CONSTITUTIONALLY GUARANTEED, AND CIVIL - BOTH UNITED STATES AND STATE OF CALIFORNIA --- BY AT LEAST

PACIFIC AND THE MUNICIPAL COURT IN VIOLATION OF LAW AND PROCEDURE, AND CONTRARY TO THE CLEAR AND UNMISTAKABLE FACTS AND MUNICIPAL COURT AND RELATED SUPERIOR COURT RECORDS, AND THAT MYER ACTED LAWFULLY AND LEGALLY AT ALL TIMES, AND IN ACCORDANCE WITH AN ADVERTISED, POSTED, AND PUBLICLY RECORDED OFFER (IN AND OF WHICH PACIFIC, AS BENEFICIARY, WAS A PARTY: THE NOTICE OF TRUSTEE'S SALE).

Due to the foregoing, PACIFIC's Unlawful Detainer action should be declared improper, null, and void, and the subject property should be re-instated to MYER with appropriate sanctions and damages in MYER's favor.

II

THE PARTIES WERE NOTIFIED OF MYER'S PURCHASE OF THE SUBJECT PROPERTY (AS WELL AS HIS CONTINUING OCCUPANCY) AND, THEREFORE, THE MATTER BEING BEYOND THE JURISDICTION OF THE MUNICIPAL COURT

1. See MYER's NOTICE OF SPECIAL CONTINUING APPEARANCE; NOTICE OF MOTION, etc., set for hearing in the Municipal Court on January 6, 1984, including: MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION with its POINTS AND AUTHORITIES, DECLARATION, and JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY; all dated December 29, 1983.

a. The DECLARATION summarizes MYER's ownership claim and challenge to the Municipal Court's jurisidiction on lines 4 - 21 of page 3 of the MOTION, as follows:

"1. I am the owner of the subject property.

2. I was the purchaser of the subject property at the foreclosure sale of same.

3. I have been and am in possession of subject property, and Defendant JOHN RAY WOELKE has NOT been in possession of the subject property at any time pertinent to this case.

4. ....

5. Such Unlawful Detainer is null and void, and inappropriate, due to the foregoing.

6. I have instituted action against [PACIFIC] (and others) in Superior Court...on November 30, 1983, Case Number 41-72-38,...

7. ...this [Municipal] Court does not have jurisdiction to proceed in this matter."

b. The JUDICIAL NOTICE... further documented MYER's appropriate

notices to the party(ies) well in advance of the Unlawful Detainer action, including:

"B. By my letter dated October 28, 1983, [MYER] served constructive NOTICE on the auctioneer and Agent of the BENEFICIARY [PACIFIC]...

C. By said letter...the Trustee was also constructively noticed.

D. By [MYER's] letter dated October 31, 1983,...[PACIFIC] was also noticed,...

G. On November 30, 1983, Owner [MYER] filed a seven-causes of action COMPLAINT... against [PACIFIC] (and others) IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF ORANGE,...CASE NO. 41-72-38,...

J. [PACIFIC] had ample NOTICE of [MYER's] occpancy/ownership of the subject property."

c. Other areas of these pleadings also relate to these notices of purchase/ownership/occupancy/lack of jurisdiction issues.

2. See MYER's NOTICE OF HEARING etc., set for hearing in the Municipal Court on January 20, 1984, including: JUDICIAL NOTICE both dated January 12, 1984, comprising: NOTICE TO THE COURT OF ERROR; NOTICE TO PLAINTIFF'S ATTORNEY; NOTICE OF POSSIBLE FRAUD; NOTICE OF OBJECTIONS; DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION; and EXHIBIT "A" (NOTICE OF PENDING ACTION dated and notarized December 7, 1983, and filed in the Orange County Superior Court on December 9, 1983, as part of MYER's previously instituted CASE NO. 41-72-38 in said Superior Court).

a. The JUDICIAL NOTICE further

documented MYER's claims and position including:

(1) On page 2, lines 7 - 8,

"B. [MYER] had had filed suit in Superior Court regarding the purchase, and that such suit is also a RIGHTs issue."

(2) On page 2, lines 17 - 28, including:

"V. JUDICIAL NOTICE... is to be taken of the NOTICE OF PENDING ACTION...filed with the Orange County Recorder,...

A. Said NOTICE was filed in Superior Court on December 9, 1983,...

B. Said NOTICE invalidates this Unlawful Detainer action, ...The Lis Pendens MUST be adjudicated BEFORE [PACIFIC] can assert any Unlawful Detainer action on the subject property."

b. The NOTICE OF PENDING ACTION (EXHIBIT "A") also documents MYER's claims and position on the second page, lines 15 - 20, as follows:

> "The object of [MYER's] action...is to protect the right, title, and interest in the subject property in good faith and with proper purpose, in accordance with his bidding and purchase at the Trustee's Sale on October 28, 1983, as detailed and specified in the COMPLAINT in the action commenced on November 30, 1983,..."

3. See NOTICE OF MOTION, etc., set for hearing in the Municipal Court on January 27, 1984, including: MOTION TO QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION with its POINTS AND AUTHORITIES, DECLARATION, and EXHIBIT "A" (NOTICE OF PENDING ACTION as aforementioned); all dated January 24, 1984.

a. On page 2,...MYER re-documented his purchase, claims, notices,

Superior Court COMPLAINT 41-72-38 and the related Lis Pendens, with JUDICIAL NOTICE to be taken of the JUDICIAL NOTICEs previously filed in the Municipal Court on December 29, 1983, and January 13, 1984.

b. On page 3,...MYER also established:

> ""IF TITLE IS INEVITABLY IN ISSUE IN AN UNLAWFUL DETAINER ACTION, THE ACTION IS NOT WITHIN THE JURISDICTION OF THE MUNICIPAL COURT"
> Asuncion v. Superior Court (1980) 108 Cal.App.3d 141, 146; 166 Cal.Rptr. 306
>
> "Furthermore, the...Asuncion case includes the issues of due process guarantees relative to affirmative defenses "which if proved would maintain...possession and ownership." Such is the issue in the SUPERIOR COURT suit [CASE NO. 41-72-38] aforementioned."

c. On page 4,...and page 5,..., MYER established the following as relative to this case:

""A "LIS PENDENS" IS FOR THE PURPOSE OF GIVING NOTICE OF THE JURISDICTION OR CONTROL WHICH THE COURT ACQUIRED OVER PROPERTY INVOLVED IN A SUIT PENDING THE CONTINUANCE OF THE ACTION"
State v. Washington Dredging & Improvement Co.
86 P. 936, 938; 43 Wash. 508

""THE DOCTRINE OF LIS PENDENS HAS LONG BEEN ESTABLISHED AND RECOGNIZED AS THE GENERAL LAW OF THE LAND UPON THE BROAD PUBLIC POLICY OF MAINTAINING THE STATUS QUO OF RIGHTS AND INTERESTS IN PROPERTY INVOLVED IN LITIGATION, NOT ONLY AS BETWEEN THE PARTIES THERETO BUT AS TO THIRD PARTIES HAVING CONFLICTING INTERESTS, UNTIL THE ACTION PENDING HAS BEEN FINALLY ADJUDICATED."
Cook v. Mozer,
140 N.E. 590, 592;
108 Ohio St 30."

"[NOTE: The "action pending" has NOT been finally adjudicated to this day.]"

d. The DECLARATION...re-iterated MYER's purchase, ownership, possession, Superior Court action, and challenge to the Municipal Court's jurisdiction.

4. See MYER's NOTICE OF MOTION, etc., set for hearing in the Municipal Court on February 17, 1984, including: DECLARATION, MOTION TO VACATE JUDGMENT and DEMAND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW with POINTS AND AUTHORITIES,....dated February 10, 1984.

a. The DECLARATION re-iterated MYER's ownership, and included the previously filed DECLARATION's.

b. On page 1 (of the P&A),..., MYER re-iterated the previously filed JUDICIAL NOTICEs, NOTICEs and MOTIONs TO QUASH, SPECIAL APPEARANCEs, etc.

c. MYER re-iterated Asuncion , supra, on page 7 (of the P&A),....

d. MYER re-iterated the LIS PENDENS doctrine his ownership/occupancy, and title claim on page 7 (of the P&A),..

NOTE: Judge Moore heard and denied MYER's MOTION TO QUASH on January

6, 1984. Judge Miller heard and denied MYER's MOTION TO QUASH on January 20, 1984.
On January 25, 1984, Judge Moore dismissed MYER's MOTION TO QUASH "ON COURT'S OWN MOTION" (two (2) days before the scheduled hearing date of January 27, 1984), as per the CIVIL MINUTE SHEET and NOTICE OF ORDER both dated January 25, 1984.
On February 10, 1984, Judge Moore dismissed MYER's MOTION TO VACATE JUDGMENT AND FOR FINDINGS "ON COURT'S OWN MOTION" (seven (7) days before the scheduled hearing date of February 17, 1984), as per the CIVIL MINUTE SHEET and NOTICE OF ORDER dated February 15, 1984.

MYER then sought relief by filing appropriate actions as CASE NO. 42-14-46 in the Orange County Superior Court (hereinafter... "OCSC"), in which the Municipal Court (hereinafter..."OCMC") the Respondent, and the Judges therein, were served appropriately, and in which MYER thoroughly re-iterated his ownership/possession/purchase, claim to title, and challenges to the jurisdiction of the OCMC and its findings against him.

5. See MYER's EMERGENCY PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE EX PARTE filed and heard in OCSC on January 31, 1984, CASE

NO. 42-14-46, including the MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF, and the EXHIBITS ("A" - "M", (items filed in the OCMC) in support thereof; all dated January 30, 1984. ...MYER re-documented his position and claims as stated in the foregoing,....

a. Since title is the ultimate issue in this Unlawful Detainer action, MYER again challenged the jurisdiction of the OCMC in the P&A, page 4,... re-citing the Asuncion case, supra.

b. Since the Lis Pendens ("as the general law of the land" and "the broad public policy") placed the jurisdiction and control of the subject property in the OCSC, MYER again challenged the jurisdiction of the OCMC in the P&A, page 6,..., reciting the State v. Washington Dredging case, supra.

c. In conjunction with sub-item

b, above, the Cook v. Mozer case, supra, was re-cited in the P&A, page 5, ..., through page 6,....

d. The EXHIBITS ("A" - "M") re-asserted all of the foregoing, as well as those appropriate OCMC items which follow.

NOTE: The OCSC Judge Franks did not grant the WRIT requested EX PARTE EMERGENCY PETITION, but on February 9, 1984, he scheduled the matter for hearing on March 12, 1984, in Department 23 of the OCSC.

6. See MYER's PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE dated on February 21, 1984, and filed on February 22, 1984, in the OCSC (CASE NO. 42-14-46) for hearing on March 12, 1984....This PETITION also included the previously served and filed MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF and the EXHIBITS ("A" - "M", (items filed in the OCMC) in support..., dated January

30, 1984: herein MYER re-documented his position and claims (as noted in the above item 5, and its sub-items a - d).

7. ....

8. On June 1, 1984, MYER served and filed as part of OCSC CASE NO. 42-14-46 NOTICE OF MOTION FOR ORDER FOR ABATEMENT OF MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE STAY OF MUNICIPAL COURT PROCEEDINGS for hearing on June 28, 1984, including: MEMORANDUM OF POINTS AND AUTHORITIES and DECLARATION in support thereof; all dated on June 1, 1984, ...MYER re-iterated his ownership/purchase/possession/right of possession and title claim....

a. Asuncion, supra, was re-asserted on P&A page 6,..., including an additional quote on P&A page 6,..., from the same citation:

"...homeowners cannot be evicted, consistent with due process guarantees, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership."

This quote was also used by OCSC Judge Sheffield in his ORDER for this CASE NO. 42-14-46, dated and filed on April 2, 1984, on page 2,....

b. In the P&A, page 6,..., MYER asserted: "THE COURT HAS NO JURISDICTION OF THE SUBJECT OF THE CAUSE OF ACTION ALLEGED (CCP Sec. 430.10 (a))"

and on... page 6 of the P&A:

""[The] court has no jurisdiction to hear or determine a case where the type of proceeding or the amount in controversy is beyond the jurisdiction defined for that particular court by statute or constitutional provision."
(Abelleira v. District Court of Appeal (1941) 17 C.2d 280, 288)"

c. On page 7 of the P&A,... MYER re-asserted the Lis Pendens doctrine, including the following quotations:

> ""A lis pendens is for the purpose of giving notice of the jurisdiction or control which the court acquires over property involved in a suit pending the continuance of the action." (Washington Dredging & Improvement Co. v. Kinnear et al. (1901) 64 Pac.Rptr. 522)....
>
> ""This doctrine is sound and wholesome, in that it preserves the status quo of all conflicting rights and interests in the property in question until there is a final adjudication of the issues raised in the pending suit." (Cook et al. v. Mozer (1923) 140 N.E. 590, 592.) ...."

d. The on page 11, P&A concluded with...:

> "...while the state does have a significant interest in preserving a speedy repossession remedy, that interest cannot justify the ex-

clusion of matters which are essential to a just resolution of the question of possession at issue. As the Court of Appeals observed in Abstract Investment Co. v. Hutchinson (1962) 204 Cal. App.2d 242, 249 [22 Cal. Rptr. 309]:

"Certainly the interest in preserving the summary nature of an action cannot outweigh the interest of doing substantial justice. To hold the preservation of the summary proceeding of paramount importance would be analogous to the 'tail wagging the dog.'""

(Green v. Superior Court (1974) 10 C.3d 616, 636; 111 Cal.Rptr. 704; 517 P.2d 1168.)"

9. MYER re-iterated his position in his PURGATORY OATH AND DECLARATION OF JEREMY MYER FOR CLARIFICATION OF RECORD for the OCSC CASE NO. 42-14-46 hearing on June 28, 1984, including the MEMORANDUM OF POINTS AND AUTHORITIES in support thereof, dated June 6, 1984, and served and received in the OCSC on June 7, 1984.

The Asuncion and Abelleira cases, supra, were requoted under "THE TITLE ISSUE; NO JURISDICTION FOR MUNICIPAL COURT" in the P&A, page 11,..., [into] page 12,....

10. ....

11. ....

a. ....

b. However, said...[Notice of Trustee's Sale]...does NOT specify any "MINIMUM" bid at all,....

As BENEFICIARY, PACIFIC was a party to the document. MYER clearly shows in his OCSC CASE NO. 41-72-38 that he purchased said property in strict accordance with said NOTICE OF TRUSTEE'S SALE, and that the OCMC could not have properly, legally or lawfully proceeded in the matter at all, by PACIFIC's own prima facie evidence.

12. ....

NOTE: Due to the prescribed limits of this OPENING BRIEF, not all of the events and case citations can be included. However, some of the essential material has been referenced, as well as the sequence of events and filings. The following Sections could all be substantively larger based on the OCMC CASE NO. A 73032 and OCSC CASE 42-14-46 files, and MYER respectfully requests the Appellate Court to review such files for their completeness, as well as his OCMC POINTS TO BE RAISED ON APPEAL, etc.

....

III

INSUFFICIENCIES OF SERVICES OF THREE-DAY NOTICE AND SUMMONSES AND COMPLAINTS DENY THE MUNICIPAL COURT JURISDICTION AND PACIFIC ANY VALID CAUSES OF ACTION

1. Throughout the pleadings as noted in Section II, items 1 - 12, above, MYER documented the facts of the insufficiencies of the services of the Three-Day Notice to Quit and all of the Summonses and Complaints, including PACIFIC's attempted re-service on January 19, 1984. MYER spelled out that: PACIFIC

had known who he was well prior to the Unlawful Detainer action by MYER's correspondence in October, 1983, and his prior suit (OCSC CASE NO. 41-72-38) of November, 1983; there was not, and never had been, any relationship with WOELKE and MYER, yet MYER had been in occupancy and possession of the subject premises, at all times prior and subsequent to both the Trustee's Sale and the Unlawful Detainer action; due to these first two (2) items, and MYER's purchase/ownership status, his not being named as a defendant by PACIFIC was constructive exclusion of him being a "DOE" either; none of PACIFIC's paperwork was served properly: there was no posting of the Three-Day Notice; there was no follow-up mail service of any of the items, as required; there was no landlord/tenant relationship; there was no precise amount of

'rent' demanded; and other items. MYER supported his position with the following case law (which was also used in several of the pleadings):

> Where an insufficient three-day notice is served, the complaint fails to state a cause of action. Strict compliance with the statutory provisions relating to the three-day notice to quit is a pre-requisite to seeking the summary remedy of unlawful detainer.
> Baugh v. Consumers Associates, Ltd. (1966)
> 241 Cal.App.2d 672, 675;
> 50 Cal.Rptr. 822.
>
> In an unlawful detainer action, the plaintiff must prove that a landlord / tenant relationship exists.
> Klein v. Loeffler (1929)
> 96 Cal.App. 383, 385; 274 P.373.
>
> A complaint in an unlawful detainer proceeding must plead the fact that a landlord-tenant relationship exists between the parties.
> Frederisksen v. McCosker
> (1956) 143 Cal.App.2d 114, 117-118; 299 P 2d 908.
>
> The failure to properly serve (three-day quit) notice on persons recognized as tenants in

possession of the premises requires a judgment in their favor in the unlawful detainer action.
Kwok v. Bergren, (1982)
130 Cal.App.3d 596, 600;
161 Cal.Rpt. 795.

One who seeks the summary remedy of unlawful detainer allowed by the statute must bring himself clearly within its terms.
Horton-Howard v. Payton (1919)
44 Cal.App. 108, 112; 186 P. 167

IV

BECAUSE OF MYER'S PURCHASE, THERE WAS NO VALID 'PERFECTION OF TITLE' AND, THEREFORE, NO MUNICIPAL COURT JURISDICTION AND NO VALID CAUSES OF ACTION MYER'S "SPECIAL APPEARANCES" DENIED ANY JURISDICTION TO THE MUNICIPAL COURT IN PERSONAM AND/OR IN REM

1. In his NOTICE OF SPECIAL CONTINUING APPEARANCE dated, served, and filed in OCMC on December 29, 1983, on page 1,..., [into] page 2,..., MYER noted:

"I respectfully object to the jurisdiction and/or authority of this Court both over the subject matter and/or my person. I DEMAND ALL OF MY RIGHTS AND I DO NOT WAIVE ANY OF THEM!"

2. MYER's Lis Pendens and OCSC suit CASE NO. 41-72-38, which included SPECIFIC PERFORMANCE as a proper cause of action for MYER to proceed in the issue of title, placed the entire matter before the OCSC, where it properly belonged.

V

MYER AND FAMILY WERE NOT IN DEFAULT; THEREFORE THE MUNICIPAL COURT'S "DEFAULT" DECISIONS WERE IMPROPER, AND OF NO LEGAL FORCE AND/OR EFFECT

MYER appeared at all times, "SPECIALLY" in the first two OCMC hearings, and filed appropriate DEMANDS/ MOTIONS in response to all of PACIFIC's (albeit invalid) SUMMONSES AND COMPLAINTS, yet the Judge found against MYER by DEFAULT "ON COURT'S OWN MOTION" (twice, supra). CCP Secs. 369 - 371 specifically allow for MYER to have handled the OCMC procedures as husband/head of household/ father, and MYER claims that as a matter

of RIGHT, regardless.

VI

MYER WAS IGNORED AND NOT GIVEN PROPER ADJUDICATION OF THE ISSUES OF LAW, FACT, AND PROCEDURE

1. MYER's issues have NOT been substantively addressed in either the OCMC or the OCSC: VIOLATIONS IN PACIFIC'S UNLAWFUL DETAINER ACTION WERE ALLOWED TO STAND, REGARDLESS OF MYER'S POSITION.

2. ....

VII

MYER WAS 'VEXATIOUSLY HARASSED' BY PACIFIC VIA THE UNLAWFUL DETAINER ACTION AS IMPROPER 'MULTIPLICITY OF SUIT'

1. PACIFIC should have awaited the outcome of the OCSC CASE NO. 41-72-38 before bringing the Unlawful Detainer.

> The controlling rule in this case, however, is that the pendency of another action growing out of the same transaction...is a ground for abatement of the second action but never for abatement of the first." (Cita-

tions) "The underlying theory of the plea of another action pending is that the first action will normally be an ample remedy, and the second action... is therefore unnecessary and vexatious. (Our italics.)" (Citations) [Italics replaced with underlines.] California Union Ins. Co. v. Trinity River Land Co. (1980) 105 Cal.App.3d 104, 108-109; 163 Cal.Rptr. 802.

VIII

THE ISSUES OF TITLE, LAW, FACT, AND PROCEDURE WERE CLEARLY BEYOND SUMMARY PROCEEDING AND JURISDICTION OF UNLAWFUL DETAINER CLERK'S WRIT OF POSSESSION AND MARSHAL'S OFFICE NOTICE TO VACATE WERE EX-JURISDICTION WITH NO LEGAL/LAWFUL SUFFICIENCY

IT APPEARS THAT PACIFIC ATTEMPTED TO 'PERFECT TITLE'

Attached to PACIFIC'S REQUEST TO ENTER DEFAULT and the APPLICATION FOR IMMEDIATE WRIT OF POSSESSION BY CLERK UNLAWFUL DETAINER, all dated and filed in OCMC on August 24, 1984, is the TRUSTEE'S DEED UPON SALE supposedly transferring the ownership of the subject

property via MAR VISTA FINANCIAL INC. (Trustee) to PACIFIC. SAID DOCUMENT IS DATED NOVEMBER 29, 1983, --- EIGHT (8) DAYS AFTER THE THREE-DAY NOTICE which states that "Title has been Duly Perfected" --- and recorded on December 1, 1983. CLEARLY, PACIFIC/ATTORNEY HAS PERPETRATED FRAUD!!!!!

XI

OTHER IRREGULARITIES IN THE PROCEEDINGS MYER AND HIS FAMILY HAVE BEEN SIGNIFICANTLY DAMAGED AS TO PROPERTY AND RIGHTS BY PACIFIC AND THE MUNICIPAL COURT

CONCLUSION

Due to all of the foregoing, as well as the records in this matter, PACIFIC's UNLAWFUL, ILLEGAL, CAPRICIOUS, AND MALICIOUS Unlawful Detainer action should be declared improper, null, and void, and the subject property should be reinstated to MYER with appropriate sanctions and damages in MYER's favor.

Date: January 17, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Action No. AP-4726
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JEREMY MYER, et al., Appellant,	
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[APPELLANT'S OPENING BRIEF under previously assigned CASE NO. AP-4482]

On Appeal from Default Judgment, Proceedings, and Decisions in the Municipal Court of Orange County, North Orange County Judicial District, State of California, [Municipal Court CASE NO: A 73032]

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I

INTRODUCTION

....

The basis of MYER's appeal is that the Municipal Court improperly assumed jurisdiction in the matter, acted improperly and ex-jurisdictionally in its decisions, improperly allowed the issuance of the 'eviction' notice, et al., that PACIFIC had no valid, legal, and/or lawful title, claim, or cause of action to have brought the Unlawful Detainer action; that PACIFIC had not duly perfected title as appropriate to such action; that the Municipal Court and PACIFIC exceeded the summary nature and proceedings of 'Unlawful Detainer' since there was no duly perfected title, there was no valid Three-Day Notice to Quit and such Three-Day Notice and the Summonses and Complaints were insufficient as to

their services; neither MYER nor anyone in his household was in default at any time; that MYER is the true purchaser of the subject property; and related items as set forth in the records.

....

MYER's OPENING BRIEF and all of the Court records clearly support this INTRODUCTION.

II

STATEMENT OF FACTS

....

PACIFIC admitted MYER's purchase and claim to the subject property via its Demurrers to both the original Complaint and the First Amended Complaint filed in the Orange County Superior Court CASE NO. 41-72-38 (also see RESPONDENT'S BRIEF (undated) filed in this CASE NO. AP-4726, page 3, lines 17 - 20).

MYER, as purchaser, could not legally and/or lawfully be treated as a "holdover", and the Unlawful Detainer action could not properly be started and/or proceed until MYER's status was resolved.

PACIFIC has not answered MYER's challenges as to the invalidities of the Three-Day Notice to Quit, the insufficiencies of services of the Summonses and Complaints, the lack of any duly perfected title (INCLUDING THE MUNICIPAL COURT RECORD WHICH SHOWS AN ATTEMPTED PERFECTION OF TITLE EIGHT (8) DAYS AFTER THE DATE OF THE THREE-DAY NOTICE TO QUIT, OR WHICH A DULY PERFECTED TITLE IS A PREREQUISITE BY LAW, and all such other items which MUST OCCUR PRIOR in order for any Unlawful Detainer to proceed on the requisite jurisdictional foundation.

Thus, it is a STATEMENT OF FACT that the courts proceeded against MYER ex-jurisdictionally and, therefore, MYER is appealing from the entire matter.

III

THE MUNICIPAL COURT IMPROPERLY ASSUMED JURISDICTION OF THE UNLAWFUL DETAINER ACTION, THE SUBJECT PROPERTY, AND THE PERSONS OF MYER AND HIS FAMILY DUE TO THE PENDENCY OF THE KNOWN PRIOR SUPERIOR COURT ACTION, MYER'S PURCHASE OF THE SUBJECT PROPERTY, THE INSUFFICIENCIES OF SERVICES OF THE THREE-DAY NOTICE TO QUIT AND ALL SUMMONSES AND COMPLAINTS, THE LACK OF ANY DULY PERFECTED TITLE PRIOR TO THE THREE-DAY NOTICE TO QUIT, ET AL.

....

...the records clearly show that the Municipal Court did not properly examine title, or any other facts which MYER presented, as pertains to THE LAW, --- that PACIFIC NEVER PROVED ACQUISITION OF TITLE TO ANY EXTENT, LIMITED OR OTHERWISE under CCP Section 1161a --- otherwise said Court MUST have properly declined jurisdiction, and that the summary nature of

the Unlawful Detainer action does not allow the Plaintiff in such action, or the Court, to proceed without title having been duly perfected, without proper services of Summonses and Complaints, and so forth.

....

FACT: There was no duly perfected title!
There was no valid Three-Day
Notice to Quit!
THERE WAS NO PRE-REQUISITE
JURISDICTION.

....

And that: An attorney is an OFFICER OF THE COURT! 7 Am. Jur. 2d, ATTORNEYS AT LAW, Sections 2 and 5.

And that: ALL attorneys, by virtue of their FREE WILL OATH, MUST AT ALL TIMES OPERATE BY LAW, AT LAW, and WITHIN THE LAW!

....

Furthermore,..., it can be seen that MYER's purchase at the Trustee's Sale was and is a complicated ownership issue, which MYER tried to convey to the Municipal Court on at least four (4) occasions, plus MYER's actions in the Superior Court, which is precisely one of the items of Asuncion, supra:

> ...the summary unlawful detainer action is not a suitable vehicle to try complicated ownership issues involving assertions of fraud and deceptive practices...

....

....

PACIFIC never established itself as being a proper plaintiff;

PACIFIC never established itself as being the proper purchaser of the subject property;

PACIFIC never "duly perfected title", nor did it do so pre-requisite to

the THREE-DAY NOTICE TO QUIT.

....

...Asuncion clearly maintains that:

> ...homeowners cannot be evicted, consistent with due process guarantees, without being permitted to raise the affirmative defenses which if proved would maintain their possession and ownership....Accordingly, title to the property is inevitably in issue in this unlawful detainer action, and the action is not within the jurisdiction of the municipal court.
> Asuncion v. Superior Court, (1980) 108 Cal.App.3d 141, 146; 166 Cal.Rptr. 306.

....the Municipal Court decided against MYER (and his family) four (4) times before MYER even approached the Superior Court with the Unlawful Detainer issue, and this court also proceeded without paying due heed to the jurisdictional and 'duly perfected title' issues raised by MYER.

NOTE: Judge Moore refused to settle Myer's Proposed Settled Statement as part of the appeal process.

IN SUMMARY, PACIFIC and so forth have totally violated every facet of the summary proceeding of Unlawful Detainer and,..., CAN THIS BE CONDONED???!!! LAWFULLY AND/OR LEGALLY???!!!

Are we a Nation of LAWS, or are we a 'nation' of men?

IV

CONCLUSION

....

THEREFORE, the holding of the lower court was improper and should be reversed in accordance with the conclusion in the APPELLANT'S OPENING BRIEF.

Dated: February 16, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Actio No. AP-472
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	
JEREMY MYER, et al., Appellant,	DATE: March 28, 1985
v.	DEPT: 25
PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Respondent.	

APPELLANT'S NOTICE OF MOTION
TO HAVE HIS PROPOSED SETTLED STATEMENT
AS FILED IN THE MUNICIPAL COURT
(EXHIBIT "X", ATTACHED)
FORMERLY ACCEPTED BY THE COURT
AS IF CERTIFIED IN THE ALTERNATIVE,
TO ORDER THE JUDGE OF THE
MUNICIPAL COURT TO CERTIFY IT,
OR, IN THE SECOND ALTERNATIVE,
ORDER THAT A STIPULATED RECORD BE
PROVIDED; MEMORANDUM OF
POINTS AND AUTHORITIES
IN SUPPORT THEREOF

TO: [Pacific] and [Pacific's] attorney of record.

PLEASE TAKE NOTICE THAT: ...Myer, on behalf of himself and his family, will move this Court to formerly accept as if certified his APPELLANT'S STATEMENT OF ISSUES TO BE RAISED ON APPEAL AND PROPOSED SETTLED STATEMENT, and DECLARATION, (EXHIBIT "X",...) dated and filed in the Municipal Court (CASE NO. A 73032) on October 17, 1984;

OR, IN THE ALTERNATIVE, an Order is to issue mandating the Judge of the Municipal Court to certify said documents;

OR, IN THE SECOND ALTERNATIVE, an Order is to issue mandating that a stipulated record is to be provided.

Said Motion will be made and based on the grounds as stated in APPELLANT'S OPENING BRIEF; APPELLANT'S REPLY BRIEF; the attached MEMORANDUM OF POINTS AND AUTHORITIES; the pleadings, records and files in this action;....

Dated: March 17, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

APPELLANT'S POINTS AND AUTHORITIES

I

INTRODUCTION

1. On October 17, 1984, Appellant filed his APPELLANT'S STATEMENT OF ISSUES TO BE RAISED ON APPEAL AND PROPOSED SETTLED STATEMENT, and DECLARATION, (EXHIBIT "X",...) dated October 17, 1984, in the Municipal Court (CASE NO. A 73032) in accordance with California Rules of

Court, Rule 127 (a).

2. On October 31, 1984, Appellant received from the Clerk of the Municipal Court (CASE NO. A 73032) a NOTICE OF HEARING "on 11-29-84 at 1:30 P.M., in Division No. 18 " dated and filed in the subject Court October 30, 1984.

3. At said hearing, in the presence of Linda Nunez, Attorney for [Pacific].., Judge...of said Municipal Court REFUSED to settle [Myer's] documents.

4. [Myer] believes that this non-action, coupled with other procedural, rights, and law violations against [Myer] and his household, should warrant that [Myer's] documents (EXHIBIT "X",...) be formerly accepted as correct without further delay.

II

THE MUNICIPAL COURT
IS A CONSTITUTIONAL COURT
AND A COURT OF RECORD

5. In Uridias v. Morrill (1863) 22 Cal. 473, 478, the State Supreme Court noted that the term "municipal court" as employed in the constitutional provision granting express permission for the legislature to establish Municipal Courts, has a legal meaning.

6. Also: Municipal Courts are courts of record. (Wilson v. Walters, (1941) 19 Cal.2d 111; 119 P. 2d 340; and Villanazul v. Los Angeles (1951) 37 Cal.2d 718; 235 P. 2d 16.)

7. The Supreme Court of California has affirmed that:

> Every one has a RIGHT TO DEMAND that he be governed by general rules; and a special statute that singles his case out as one to be regulated by a different law from that which is applied in all similar cases would not

be legitimate legislation, but an ARBITRARY MANDATE, UNRECOGNIZED BY THE LAW."
(Emphasis added.)
Ex parte Jentzsch (1896)
44 Pac.Rptr. 803, 805.

III

THE MUNICIPAL COURT JUDGE WAS ARBITRARY AND BEYOND HIS POWERS BY REFUSING TO SETTLE THE STATEMENT

8. If the Appellant has prepared a statement, even if deficient, that contains those portions of the oral proceedings WHICH HE DEEMS MATERIAL to the determination of his points on appeal, the Court may not strike it out, but MUST proceed to settle it (Stevens v. Superior Court (1958) 160 Cal.2d 264, 268; 325 P.2d 204; Sweet v. Markwart (1953) 115 Cal.2d 735, 742, 743; 252 P.2d 751).

9. [Myer] had prepared a statement, as part of the record, that contains those portions of the oral proceedings

WHICH HE DEEMS MATERIAL TO THE DETERMIN
TION OF HIS POINTS ON APPEAL, and by n
settling it, the Municipal Court Jud
acted arbitrarily.

10. Full and plenary power over t
Settled Statement Record is reposed
the trial judge, SUBJECT ONLY TO T
LIMITATION THAT HE DOES NOT ACT ARBITR
RILY (Keller v. Superior Court (1950)
100 Cal.2d 231, 234; 223 P.2d 309).

11. The trial judge may not arbitr
rily refuse to settle the Proposed Stat
ment for use on appeal, unless there
some justifiable excuse (Sidebotham v.
Superior Ct. In and For City and Coun
of S. Francisco (1958) 326 P. 2d 890;
161 Cal.2d 624).

IV

CONCLUSION

WHEREFORE, for the reasons as stat
above, and for other violations of t

proceedings as documented in the records, Appellant prays this Court to formerly accept his aforementioned APPELLANT'S STATEMENT OF ISSUES TO BE RAISED ON APPEAL AND PROPOSED SETTLED STATEMENT, and DECLARATION, (EXHIBIT "X",...) as part of the record on appeal as if certified;

OR, IN THE ALTERNATIVE, an Order should issue mandating the Municipal Court Judge to certify it as is;

OR, IN THE SECOND ALTERNATIVE, an Order should issue mandating that a stipulated record of the attached be provided.

Dated: March 17, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Actio No. AP-472
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Respondent.	DATE: March 28, 198 DEPT: 25

APPELLANT'S NOTICE OF MOTION TO HAVE THE SUBJECT PROPERTY IMMEDIATELY RETURNED TO HIM AND HIS FAMILY FOR THEIR QUIET AND PEACEFUL ENJOYMENT; AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

TO: [Pacific] and [Pacific's]
attorney of record.

PLEASE TAKE NOTICE THAT: ...Myer, on behalf of himself and his family, will move this Court for an Order to have the subject property immediately returned to him and his family for their quiet and peaceful enjoyment.

Said Motion will be made and based on the grounds as stated in APPELLANT'S OPENING BRIEF; APPELLANT'S REPLY BRIEF; the attached MEMORANDUM OF POINTS AND AUTHORITIES; the pleadings, records and files in this action;....

Dated: March 17, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per

POINTS AND AUTHORITIES

In the interest of not duplicating what has been written thus far, APPEL-

LANT'S OPENING BRIEF and APPELLANT'
REPLY BRIEF, as filed in this CASE, ar
included by their reference as if full
set forth herein, and are the POINTS AN
AUTHORITIES for the Motion.

Dated: March 17, 1985.

Respectfully submitted

Jeremy Myer
Appellant, In Pro Per

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff,	
v.	Civil Action No. AP-4726
JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	
JEREMY MYER, et al., Appellant,	(Superior Ct. No. 42-14-46)
v.	
PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATIRON, Respondent.	(Municipal Ct. No. A 73032)

APPELLANT'S PETITION FOR REHEARING
OR CERTIFICATION TO THE COURT OF APPEAL

Appellant, JEREMY MYER, hereby Petitions this Court for Rehearing or Certification to the Court of Appeal of the above-captioned matter. Said Petition is made pursuant to Rules 63 and 107, California Rules of Court, and is based upon

this Petition, and the files, records an pleadings in this action.

[Myer] contends that the Municipa Court erred in assuming jurisdiction o the Unlawful Detainer action, the subjec property, and the persons of [Myer] an his family due to the pendency of th known prior Superior Court Action [Myer's] purchase of the subject prop erty, the insufficiencies of services o the Three-Day Notice to Quit and AL Summonses and Complaints, the lack of an duly perfected title prior to the Three Day Notice to Quit, and so forth A CLEARLY DOCUMENTED IN THE RECORDS AND A REQUIRED BY LAW!

[Myer] contends that the erring o the Municipal Court as stated abov violates his UNALIENABLE RIGHTS as a fre

and independent person to acquire, possess, and protect PROPERTY, and to pursue and obtain safety, happiness, and privacy as guaranteed by Article I, Section 1, of the Constitution of the State of California, and that such error cannot be ignored by this Court. [Myer] further contends that the erring of the Municipal Court deprived him (and his family) of PROPERTY without due process of law and denied him (and his family) EQUAL PROTECTION OF THE LAWS as mandated by Article I, Section 7(a), of the Constitution of the State of California, and that such error also requires reversal of the results and judgments of the proceedings which forced [Myer] and his household from the subject premises. In this regard, [Myer] additionally contends that such DEPRIVATION OF PROPERTY AND DENIAL OF EQUAL PROTECTION OF THE LAWS resulted

because THE LAW was not applied at all.

[Myer] also contends that the erri
of the Municipal Court which resulted
the findings against and the ousting
[myer] and his household from the subje
property violates Article I, Section 7(
of the Constitution of the State of Cal
fornia which precludes a citizen or cla
of citizens from being granted privileg
or immunities not granted on the sa
terms to all citizens and, for this err
the Municipal Court action should
reversed and the subject property r
stored to [Myer] and his household.

The summary proceeding of the Unla
ful Detainer REQUIRES very strict adhe
ance to the pre-requisites of Perfecti
of Title which was lacking and witho
which the complaint fails to state

cause of action (Baugh v. Consumers Associates, Ltd. (1966) 241 Cal.App.2d 672, 675; 50 Cal. Rptr.822). Such summary proceeding also requires proper services of the Three-Day Notice to Quit, the Summonses and Complaints, and one seeking such remedy MUST bring himself CLEARLY within its terms (Kwok v. Bergren, (1982) 130 Cal.App.3d 596, 600; 161 Cal.Rptr. 795; Horton-Howard v. Payton, (1919) 44 Cal.App.108, 112; 186 P. 167).

Furthermore, since a complicated title issue was involved, the Municipal Court had no jurisdiction to hear or determine the case (Abelleira v. District Court of Appeal (1941) 17 Cal.2d 280, 288; Asuncion v. Superior Court (1980) 108 Cal.App.3d 141, 146; 166 Cal. Rptr.306).

The Municipal Court's actions an decisions further violated Article I Section 9, of the Constitution of th State of California in that there can b no law impairing the OBLIGATION OF CON TRACTS. Not only does [Myer] conten that [Pacific] breached a contract wit [Myer] and the obligations thereof, amon other issues, [Myer] further contend that the Municipal Court impaired it OBLIGATIONS AND DUTIES in its conduct o the matters, and the expectation tha [Myer] should normally expect that TH LAW is to be followed by the COURTS O CALIFORNIA IN THE UNITED STATES OF AMERI CA, including the procedures of the sum mary nature of the Unlawful Detainer Such also require this Court to direct reversal of the Municipal Court's action and decisions.

[Myer] additionally contends that the erring of the Municipal Court violates his (and his family's) RIGHT TO BE SECURE IN THEIR PERSONS, HOUSES, PAPERS, AND EFFECTS as intended by Article I, Section 13, of the Constitution of the State of California and that such error also requires reversal of the Municipal Court actions and decisions.

[Myer] further contends that Article XX, Section 3, of the Constitution of the State of California was violated by the errors of the Municipal Court: that the oaths to "bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California" were not upheld and, in fact, were violated by the Municipal Court's actions and decisions further requiring reversal of its actions and decisions.

[Myer] also contends that the errors of the Municipal Court violate Article III, Section 1, of the Constitution of the State of California, which CLEARLY states that: "The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land." Such errors also require this Court to direct a reversal on these counts.

To summarize, the violations of the United States Constitution include:

1. Article I, Section 10, clause 1, on impairing the obligation of contracts by and between the parties (and others).

2. Article VI, clause 2, on the supreme law of the land since [Myer's] RIGHTS, THE LAW, and related statutes and procedures were violated as the records CLEARLY show.

3. Amendment IV, Section 1, on the RIGHT of [Myer] and his family to be secure in their persons, houses, papers, and effects.

Should this Court decline to entertain a rehearing of this matter, [Myer] requests that the case be certified to the Court of Appeal in order to settle the important questions of THE LAW raised by this Appeal.

The following settled rules of LAW, case law, and maxims were violated by the rulings of the Municipal Court (CASE NO. A 73032) and by the rulings of the Superior Court (related CASE NO. 42-14-46):

1. By the Municipal Court assuming jurisdiction and the Superior Court not correcting such assumptions upon appropriate Petitions, [Myer's] SPECIAL (and

NOT general) appearances wherein he asserted ALL of his RIGHTS, including those RIGHTS, and his objections to the jurisdiction and/or authority of the Municipal Court both over the subject matter and/or his person, were violated by the proceedings and the results thereof since such are secured by the Magna Carta, The Bill of Rights of 1689, The Declaration of Resolves of the First Continental Congress of October 14, 1774, The Declaration of Causes and Necessity of Taking up Arms of 1775, The Declaration of Independence, The Articles of Confederation, The Treaty of Peace with Great Britain of 1783, The Northwest Ordinance of 1789, The Constitution of the United States (including ALL RIGHTS as guaranteed and secured therein, including the Fourteenth Amendment), and the Constitution and Law of this State

not inconsistent with any of the foregoing. (See [Myer's] NOTICE OF SPECIAL CONTINUING APPEARANCE dated and filed in the Municipal Court on December 29, 1983, and other appropriate filings by [Myer] as are in the records.)

2. As per [Myer's] MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION; POINTS AND AUTHORITIES; DECLARATION; JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO PLAINTIFF'S ATTORNEY; as SPECIAL APPEARANCE; dated and filed in the Municipal Court on December 29, 1983, and other appropriate filings by [Myer] as are in the records (such documents positively notifying the Municipal Court and establishing the record as to [Myer's] purchase, ownership, and possession of the subject property, as well as insufficiencies of services):

The Constitution of the United States is the supreme law of the land, and binds every forum whether it derives its authority from a State or from the United States.
Cook v. Moffat et al., (1847) 5 How (46 U.S.) 295, 308; 12 L.Ed. 159, 165.

The Constitution of the United States and all laws enacted pursuant to the powers conferred by it on the Congress are the supreme law of the land (U. S. Const., art. VI, sec. [SIC] 2) to the same extent as though expressly written into every state law.
People ex rel Happel v. Sischo (1943) 23 Cal.2d 478, 491; 144 P.2d 785, 791.

Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them
Miranda v. Arizona, (1966) 384 U.S. 436, 491; 86 S.Ct.1602; 16 L.Ed 694.

"II. JUDICIAL NOTICE is to be taken of the NOTICE OF CONTINUING SPECIAL APPEARANCE, and the NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION (and the POINTS AND AUTHORITIES and DECLARATION)...."

"III. JUDICIAL NOTICE is to be

taken...

A. I, ...MYER, purchased the subject property at the Trustee's Sales on October 28, 1983.

B. ...

I ALSO NOTIFY YOU THAT I AM IN POSSESSION OF SAID PROPERTY,..."

Various correspondence as described.

"G. On November 30, 1983, Owner...MYER filed a seven-causes of action COMPLAINT... against [Pacific] (and others) IN THE SUPERIOR COURT...pertinent to the subject property... CASE NO. 41-72-38,....

H. Said COMPLAINT includes the statement that: [MYER] WAS, AND IS, FOR ALL MATTERS OF THIS COMPLAINT, THE RESIDENT OCCUPANT OF THE SUBJECT PREMISES."

Other appropriate items, including insufficiency of service of Three-Day Notice to Quit.

"N. On December 9, 1983, [MYER] filed a NOTICE OF PENDING ACTION with the Orange County Recorder, and with the Superior Court ...to supplement CASE NO. 41-72-38...."

Other appropriate items, including insufficiency of service of the SUMMONS and COMPLAINT --Unlawful Detainer (left in the

mailbox, but not mailed).

"P. ...

5. In compliance with CC Sec. 2924 et. seq., [MYER] purchased the subject property at the foreclosure sale.

6. [Pacific's] 'perfection of title' is a fraud.

7. Items 4 through 8 of the COMPLAINT--Unlawful Detainer are invalid and fraudulent."

Other appropriate items pointing out invalidities of the COMPLAINT--U.D., its service, lack of landlord/tenant relationship, and so forth.

"IV. JUDICIAL NOTICE is to be taken that...Owner...MYER believes that [PACIFIC] AND [PACIFIC'S] ATTORNEY ARE HARASSING HIM AND PERPETRATING A FRAUD ON BOTH HIM AND THIS COURT BY BRINGING THIS UNLAWFUL DETAINER ACTION.

V. JUDICIAL NOTICE IS TO BE TAKEN THAT:

...the SUMMONS and COMPLAINT --Unlawful Detainer...were not received until December 26, 1983 in the mailbox of said property --- and not by mail.

VI. JUDICIAL NOTICE IS TO BE TAKEN THAT:

1. Attorneys are officers of the court, and must know and obey the LAW:

52 Cal.Jur.3d, Sec.173 Duty to obey the law:

> It is elementary that public officers must obey the law. (Wirin v. Parker 48 Cal.2d 890; 31 P. 2d 844)
>
> The United States Supreme Court has repeatedly asserted that all officers of the government from the highest to the lowest are creatures of the law and bound to obey it. (63 Am.Jur.2d, PUBLIC OFFICERS AND EMPLOYEES SEC. 277)

2. In U.S. v. Nixon, it was stated that:
'...for we are not a country of men but we are a COUNTRY OF LAWS AND ALL MUST FOLLOW THEM, including the highest men in office'.

3. Where there is no jurisdiction there is no judge; THE PROCEEDING IS AS NOTHING. Manning v. Ketcham 58 F. 2d 948. (Emphasis added.)

VII. JUDICIAL NOTICE is to be taken that [Pacific] has NO CAUSE OF ACTION to pursue this Unlawful Detainer action."

3. As per [Myer's] NOTICE OF HEARING JUDICIAL NOTICE NOTICE TO THE

COURT OF ERROR; NOTICE TO [PACIFIC'S] ATTORNEY; NOTICE OF POSSIBLE FRAUD; NOTICE OF OBJECTIONS; DEMAND FOR QUASH OF SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF JURISDICTION. S P E C I A L A P P E A R A N C E dated January 12, 1984, and filed with the Municipal Court on January 13, 1984:

> "NOTICE IS HEREBY GIVEN that Owner,...MYER, appears SPECIALLY and not generally to give JUDICIAL NOTICE,..." and so forth. Previous filings were included by their reference and [Myer] re-asserted his ownership claim, possession, and related matters showing the impropriety and insufficiency of the Unlawful Detainer action.
>
> "V. JUDICIAL NOTICE and other appropriate NOTICE is to be taken of the NOTICE OF PENDING ACTION (CCP SEC. 409) filed with the Orange County Recorder, copy ...included herein by its reference" and related points.
>
> Paragraph VI clearly asserts and proves that...(MYER) "is not a defendant", and could not be, and "that denial of the MOTION TO QUASH the Unlawful Detainer

was in error".

Paragraph VII challenges [Pacific's] position including [Myer's] re-assertions as to the invalidities of services of the Three-Day Notice to Quit and the Summons and COMPLAINT, including:

"B. The 'three-day' notice to quit, its service, its substance, and its Declaration of Service of Notice to Tenant (included in [Pacific's] MEMORANDUM) are conspiratorially fraudulent and deceitful (...) ..." and sub-items asserted no landlord/tenant relationship, lack of cause of action, no precise amount of rent due stated on the complaint, such that:

"10. ...Where an insufficient three-day notice is served, the complaint fails to state a cause of action (Baugh v. Consumers Associates, Ltd. (1966) 241 Cal.App.2d 672, 675; 50 Cal.Rptr. 822). Strict compliance with the statutory provisions relating to the three-day notice to quit is a prerequisite to seeking the summary remedy of unlawful detainer (Baugh v. Consumers Associates, Ltd., supra)."

"E. ...
The phrase [lack of jurisdiction] may mean

> lack of power of a court to act in a particular manner or to give certain kinds of relief. In re Rowe's Estate, 66 Cal.App. 2d 594, 152 P. 2d 765, 770. It may consist in court's total want of power to act at all, or lack of power to act in particular case because conditions essential to exercise of jurisdiction have not been complied with, or may consist of lack of jurisdiction over subject matter or over person." "Black's Law Dictionary, Fifth Edition".

"F. ...In...Unlawful Detainer action, the Plaintiff MUST prove that a landlord/tenant relationship exists (Klein v. Loeffler (1929) 96 Cal.App. 383, 385; 274 P. 373). As stated previously, there is no such relationship, and [Pacific] has failed to prove same. [Pacific] IS SIMPLY ASSUMING ROLES VIA THE THREE-DAY NOTICE TO QUIT and the related paperwork.

X. ...

> A complaint in an unlawful detainer proceeding must plead the fact that a landlord-tenant relationship exists between the parties (Federicksen v. McCosker

(1956) 143 Cal.App.2d
114, 117-118;
299 P. 2d 908)."

4. As per [Myer's] NOTICE OF MOTION AND MOTION TO QUASH SERVICE OF SUMMONS FOR LACK OF JURISDICTION (CCP Sec. 1167.4 (a), 418.10(a)); POINTS AND AUTHORITIES; DECALARATION dated and filed with the Municipal Court on January 24, 1984:

> "COMES NOW THE OWNER...,MYER,... to challenge the JURISDICTION of this Court over the Owner/ Defendant IN PERSONAM and IN REM and to DEMAND respectfully that the Complaint...be quashed, dismissed, abated, overthrown, vacated, annuled and in all other ways made void for LACK OF JURISDICTION. ...MYER also appears for those identified in open court on January 20, 1984, as DOES 1 and 3, since they are members of his household/family.
>
> " POINTS AND AUTHORITIES
>
> I.
>
> INTRODUCTION
>
> "On October 28, 1983,...MYER successfully bid for ["the "subject property""] in accordance with all of the terms and conditions of the NOTICE OF TRUSTEE'S SALE and in accordance with LAW and became the true owner....

"On November 30, 1983,...MYER filed a seven causes of action COMPLAINT...against [Pacific]... (and others) IN THE SUPERIOR COURT...pertinent to his purchase of the subject property... CASE NO. 41-72-38, and also advised of his resident/occupancy of the premises.

"Said COMPLAINT includes as EXHIBITS the NOTICE OF TRUSTEE'S SALE aforementioned....

"On December 9, 1983,...MYER had recorded in the Orange County Recorder's Office, and then filed as part of the aforementioned suit in SUPERIOR COURT, a NOTICE OF PENDING ACTION (CCP Sec. 409), a copy of which...is included...by its reference.

"JUDICIAL NOTICE is to be taken of the JUDICIAL NOTICE AND NOTICE TO THE COURT AND TO [PACIFIC'S] ATTORNEY filed with this Court on December 29, 1983.

"JUDICIAL NOTICE is to be taken of the JUDICIAL NOTICE, etc., filed with this Court on January 13, 1984.

"

II.

IF TITLE IS INEVITABLY IN ISSUE IN AN UNLAWFUL DETAINER ACTION, THE ACTION IS NOT WITHIN THE JURISDICTION OF THE MUNICIPAL COURT

Asuncion v. Superior

Court (1980)
108 Cal.App.3d 141, 146;
166 Cal.Rptr. 306.

"...Asuncion...includes the issue of due process guarantees relative to affirmative defenses "which if proved would maintain ...possession and ownership." Such is the issue in the SUPERIOR COURT suit aforementioned.

"

III.

A MOTION TO QUASH SERVICE OF SUMMONS IS PROPER IN AN UNLAWFUL DETAINER PROCEEDING (CCP Sec. 1177).

"

IV.

ON OR BEFORE THE LAST DAY OF HIS/HER TIME TO PLEAD, OR WITHIN SUCH FURTHER TIME AS THE COURT MAY FOR GOOD CAUSE ALLOW, A DEFENDANT MAY SERVE AND FILE A NOTICE OF MOTION TO QUASH SERVICE OF SUMMONS ON THE GROUND OF LACK OF JURISDICTION OF THE COURT OVER HIM/HER (CCP Sec. 418.10(a)(1)).

"

V.

A "LIS PENDENS" IS FOR THE PURPOSE OF GIVING NOTICE OF THE JURISDICTION OR CONTROL WHICH THE COURT ACQUIRED OVER PROPERTY INVOLVED IN A SUIT PENDING THE CONTINUANCE OF THE ACTION State v. Washington Dredging & Improvement Co.,

86 P.936, 938; 43 Wash 508,
....

" VI.

THE DOCTRINE OF LIS PENDENS HAS LONG BEEN ESTABLISHED AND RECOGNIZED AS THE GENERAL LAW OF THE LAND UPON THE BROAD PUBLIC POLICY OF MAINTAINING THE STATUS QUO OF RIGHTS AND INTERESTS IN PROPERTY INVOLVED IN LITIGATION, NOT ONLY AS BETWEEN THE PARTIES THERETO BUT AS TO THIRD PARTIES HAVING CONFLICTING INTERESTS, UNTIL THE ACTION PENDING HAS BEEN FINALLY ADJUDICATED.

Cook v. Mozer,
140 N.E.590, 592;
108 Ohio St 30.

" DECLARATION

I, JEREMY MYER, Owner of the subject property in this case, Declare that:

1. I am the true owner of the subject property.
2. I was the purchaser...at the foreclosure sale ... in accordance with the terms of the Trustee's Sale and in accordance with THE LAW."

Other declaratory points pertinent to the action.

"[NOTE: Dismissed on Court's own motion two (2) days before the hearing date, even though [Myer's]

MOTION was in response to [Pacific's] new service as described in the records.]

5. As per [Myer's] JUDICIAL NOTICE, NOTICE OF OBJECTIONS, VIOLATIONS OF DUE PROCESS & RIGHTS dated and filed with the Municipal Court on January 27, 1984:

> "...Myer was not heard on his Motion to Quash filed with Court on Jan 24, 1984, to be heard on January 27, 1984, in accordance with CCP after being re-served with Summons & Complaint on evening of 1/19/84 as specified in Notice of Motion. I claim, hereby, violations of due process, violations of rights, abuse of process, and I waive none of my rights, and claim all of them.
> "...MYER objects hereby to these proceedings and that he has not been sufficiently heard in this matter wherein, among other issues, where title is the ultimate issue, the Municipal Court has no jurisdiction; also, there is no landlord/tenant relationship."

6. As per [Myer's] NOTICE OF MOTION AND MOTION TO VACATE JUDGMENT; CCP Sec. 663, 663a; DEMAND FOR FINDINGS OF FACT

AND CONCLUSIONS OF LAW; POINTS AND AUTHORITIES; DECLARATION dated and filed with the Municipal Court on February 10, 1984:

> "...MYER,...DEMAND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW for all steps in the proceedings of this Court and [Pacific] and [Pacific's] Counsel as relevant to this Unlawful Detainer action from its inception;....
>
> "
>
> DECLARATION
>
> ...
>
> 1. JUDICIAL NOTICE IS TO BE TAKEN OF THE DECLARATIONS dated and filed with the Court on December 29, 1983, and January 24, 1984, and that they are included herein by their reference.
>
> "
>
> MOTION TO VACATE JUDGMENT (CCP Sec. 663, 663a); DEMAND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW.
>
> COMES NOW...MYER, appearing also for DOES 1 and 3 (since they are members of his household family),...does respectfully demand FINDINGS OF FACT AND CONCLUSIONS OF LAW for all steps in the proceedings...such to be in writing to establish the record.

" MYER does hereby assert and maintain...that an incorrect and erroneous legal basis for the decision, not consistent with and not supported by the facts, has been rendered.

" MYER will also move the Court to enter another and different judgment consistent with BOTH the facts and THE LAW,...."

" POINTS AND AUTHORITIES

I.

INTRODUCTION

Items to be judicially noticed were listed.

"[New] service/re-service was acknowledged in open court on January 20, 1984, by [Pacific's] Attorney...and...was not part of the official Court Record....

"[Myer] (and his family/household for whom he also acted --- see CCP Sec. 371, and CCP Sec. 369 ..."

"[Therefore, there never was any default, as found by the Municipal Court.]"

Other items and challenges again as listed previously.

A FACT WHICH HAS EXISTED CANNOT BE MADE NEVER TO HAVE EXISTED

WHERE A SPECIFIC DUTY IS ASSIGNED BY LAW, AND INDIVIDUAL RIGHTS DEPEND UPON THE PERFORMANCE OF THAT DUTY,...THE INDIVIDUAL WHO CONSIDERS HIMSELF INJURED, HAS A RIGHT TO RESORT TO THE LAWS OF HIS COUNTRY FOR A REMEDY

THE VERY ESSENCE OF CIVIL LIBERTY CERTAINLY CONSISTS IN THE RIGHT OF EVERY INDIVIDUAL TO CLAIM THE PROTECTION OF THE LAWS WHENEVER HE RECEIVES AN INJURY

THE GOVERNMENT OF THE UNITED STATES HAS BEEN EMPHATICALLY TERMED A GOVERNMENT OF LAWS AND NOT OF MEN."

(The above from Marbury v. Madison 5 U.S. 137)

"MOREOVER, THE CONSTITUTION IS AN AGREEMENT OR COMPACT BETWEEN EACH INDIVIDUAL OF THE PEOPLE AND ALL THE REST, AS WELL AS BETWEEN EACH ONE OF THE STATES AND ALL THE OTHERS.
(Cook v. Moffat, 12 L.Ed. 159, 161.)

"WE THE PEOPLE OF THE UNITED STATES...DO ORDAIN AND ESTABLISH THIS CONSTITUTION FOR THE UNITED STATES OF AMERICA. (Preamble) "

" IV

(O)NE WHO SEEKS THE SUMMARY REMEDY OF UNLAWFUL DETAINER ALLOWED BY THE STATUTE MUST BRING HIMSELF CLEARLY WITHIN ITS TERMS
(Horton-Howard v. Payton, (1919) 44 Cal.App. 108,112; 186 P. 167.)

"The failure to properly serve (three-day quit) notice on persons recognized as tenants in possession of the premises requires a judgment in their favor in ...unlawful detainer action (Kwok v. Bergren (1982) 130 Cal.App.3d 596, 600; 181 Cal.Rptr. 795)."

Other citations.

" V

...
No Officer can acquire jurisdiction by deciding that he has it. The officer, whether judicial or ministerial, decides at his peril.
(Middleton v. Low, 30 Cal.596)."

" JUDICIAL NOTICE is to be taken of Title 42 of the UNITED STATES CODE, Sections 1981 through 1986,...(ANNOTATED)."

" VI

JUDICIAL NOTICE is to be taken of the LIS PENDENS doctrine as previously documented by [Myer], as well as his claim to title and that [Pacific's] perfection of title is a fraud (to be adjudicated in other proceedings)."

"[NOTE: Dismissed on Court's own motion on the same day as filed and seven (7) days before noticed hearing date.]"

7. As per [Myer's] EMERGENCY PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW / JUSTICE EX PARTE (CCP Sec. 1085, 1086, 1102, 1103, 1107); MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EMERGENCY PETITION; and EXHIBITS "A" through "M"; dated January 30, 1984, and filed IN THE SUPERIOR COURT ..., on January 31, 1984, CASE 42-14-46:

...MYER noted his ownership claim

purchase, and the prior proceedings in the Municipal Court.

"A Writ of Mandate may issue from any court, except a municipal or justice court, to any inferior tribunal,...or person to compel the performance of an act which the law specifically enjoins as a duty from an office, trust, or station or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled and from which the party is unlawfully precluded. The Writ must be issued in all cases where there is no plain, speedy, and adequate remedy in the ordinary course of the law on the Verified Petition of the party beneficially interested (CCP Sec. 1085, 1086)."

"A Writ of Prohibition...must be issued upon the Verified Petition of the person beneficially interested. The Writ of Prohibition arrests the proceedings of any tribunal,...or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal,...or person (CCP Sec. 1102, 1103).

"The court in which the application is filed, in its discretion and for good cause, may grant the application ex parte, without notice of service of the

application (CCP Sec. 1107).

"...a Writ of Mandate or Prohibition...[should] be issued on the Verified Petition of the party beneficially interested (CCP Sec. 1086, 1103).

"The Unlawful Detainer action and the Default Judgement rendered...by...the...[Municipal Court] when [Myer] set a hearing with NOTICE OF MOTION AND MOTION TO QUASH FOR LACK OF JURISDICTION in response to a new service of SUMMONSES and COMPLAINTS shows that [Myer] needs the lower tribunal to be compelled to QUASH ALL PROCEEDINGS AND REVERSE ITS DEFAULT JUDGEMENT, and that [Myer] has no other plain, speedy, or adequate remedy in the ordinary course of law. [Myer], as the facts show, has a beneficial interest and is entitled to the enjoyment of the right of possession along with his purchase/ownership. Due to the summary nature of the proceedings in the lower tribunal, as well as the procedural and jurisdictional violations, granting of the application EX PARTE is most appropriate. It is most appropriate to totally arrest the actions of the Respondent (and [Pacific]) in this matter. (CCP 1085, 1086, 1102, 1103, 1107.)

"A Writ of Mandate is the appropriate remedy to direct the trial court to apply the proper law (Hurtado v.Superior Court (1974) 11 Cal.3d 574, 579; 114 Cal.Rptr.106; 522 P.2d 666).

Other case citations supra: Asuncion v. Superior Court, Owens v. City of Independence, Middleton v. Low, Manning v. Ketcham, Klein v. Loeffler, Fredericksen v. McCosker, Baugh v. Consumers Associates, Ltd., Kwok v. Bergren, Horton-Howard v. Payton, State v. Washington Dredging & Improvement Co., Cook v. Mozer.

Appropriate CCP Sections addressed: 1177, 1167.3, 1167.4, 418.10(a)(1),

8. As per [Myer's] PETITION FOR WRIT OF MANDATE/PROHIBITION/JUDICIAL REVIEW/JUSTICE (CCP Sec. 1085, 1086, 1102, 1103) dated February 21, 1984, and filed in the Superior Court on February 22, 1984. (See item 7, above.)

9. As per [Myer's] NOTICE OF MOTION FOR ORDER FOR ABATEMENT OF MUNICIPAL COURT PROCEEDINGS OR IN THE ALTERNATIVE

STAY OF MUNICIPAL COURT PROCEEDINGS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF; DECLARATION CCP Secs. 430.10 (a) and (c), 597 dated and filed in the Superior Court on June 1, 1984:

> "...on the grounds that the Respondent Court had no jurisdiction of the subject cause of action and that there is another action pending between...same parties (and others) on the same subject matter (CASE 41-72-38, ..., Superior Court,...)."
>
> ...MYER re-documented his purchase, ownership, and other issues, as aforementioned, including citing the Asuncion case, supra.
>
> "[The] court has no jurisdiction to hear or determine a case where the type of proceeding or the amount in controversy is beyond the jurisdiction defined for that particular court by statute or constitutional provision.
> (Abelleira v. District Court of Appeal (1941)
> 17 Cal.2d 280, 288)"
>
> Again cited Washington Dredging and Cook v. Mozer supra., and attested to the harassment and inappropriateness of the

Unlawful Detainer action, including:

""The controlling rule in this case, however, is that the pendency of another action growing out of the same transaction...is a ground for abatement of the second action but never for abatement of the first." (Citations) "The underlying theory of the plea of another action pending is that the first action will normally be an ample remedy, and the second action... is therefore unnecessary and vexatious. (Our italics.)" (Citations) [Italics replaced with underlines.] (California Union Ins. Co. v. Trinity River Land Co. (1980) 105 Cal.App.3d 104, 108-109; 163 Cal.Rptr. 802)"

""It is well settled in California that the pendency of a prior action based upon the same cause, contested by the same parties and considered in the same jurisdiction, is ground for abatement of the second action." (Hanrahan v. Superior Court (1947) 81 Cal.App.2d 432, 435; 184 P.2d 157)"

"No "...California decision... prohibits a tenant from interposing a defense which...directly relate[s] to the issue of possession and which, if established, would result in the

tenant's retention of the premises."
(Green v. Superior Court (1974) 10 Cal.3d 616, 633; 111 Cal.Rptr. 704; 517 P.2d 1168)"

""Where the rights of the parties to the second action cannot be properly determined until the questions raised in the first action are settled the second action should be stayed."
(Simmons v. Superior Court (1950) 96 Cal.App.2d 119, 130; 214 P.2d 844)

""The rule which forbids a later action in the same state between the same parties involving that same subject matter rests upon principles of wisdom and justice, to prevent vexation, oppression and harassment, to prevent unnecessary litigation, to prevent a multiplicity of suits,---in short, to prevent two actions between the same parties involving the same subject matter from proceeding independently of each other."
(Simmons v. Superior Court," supra., "124-125".

""...while the state does have a significant interest in preserving a speedy repossession remedy, that interest cannot justify the exclusion of matters which are essential to a just resolution of the question of posses-

sion at issue. As the Court of Appeals observed in Abstract Investment Co. v. Hutchinson (1962) 204 Cal.App.2d 242, 249 [22 Cal.Rptr.309]:

> "Certainly the interest in preserving the summary nature of an action cannot out-weigh the interest of doing substantial justice. To hold the preservation of the summary proceeding of paramount importance would be analogous to the 'tail wagging the dog.'""

(Green v. Superior Court (1974) [supra] 10 Cal.3d 616, 636; 111 Cal.Rptr. 704; 517 P.2d 1168.)"

10. As per [Myer's] PURGATORY OATH AND DECLARATION...FOR CLARIFICATION OF RECORD dated June 6, 1984, and "RECEIVED" in the LAW & MOTION DEPARTMENT 23 IN THE SUPERIOR COURT on June 7, 1984.

11. As per all other filings and pleadings of [Myer] in this matter.

Additionally:

> ""Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the... law the end justifies the means ...would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face."
> Olmstead v. United States, 277 U.S. 438, 485 (1928) (dissenting opinion)."
> Dissenting opinion of Mr. Justice Brandeis.
> Miranda v. Arizona, (1966) 384 US 436, 479-480; 86 S.Ct. 1602; 16 L.Ed. 694.

"Special appearance" is recognized in California.
Judson v. Superior Court of Los Angeles County, 129 P.2d 361, 362; 21 Cal.2d 11.

The Municipal Court proceeded without proving jurisdiction once it had been challenged.
Burns v. Municipal Court
195 Cal.App.2d 599.

Agency action must be founded upon the proper substance law and procedural basis --- rather than mere good intention, personal insight, prejudice, or predication.
Duke v. U.S., (1974)
382 F.Supp 362, Affid. in part
539 F.2d 220.

A municipality has no immunity from liability under Sec. 1983 flowing from its constitutional violations and may not assert the good faith of its officers as a defense to such liability.
Owens v. City of Independence
(1980) 100 S.Ct. 1398

"Judge acting in clear absence of jurisdiction was liable."
Maine v. Thiboutot, (1980)
100 S.Ct. 2502.

Evidence Code Sections 450 - 453.

[Myer] herebv respectfully requests that this Court do a De Novo Review since he has not had the benefit of an attorney in preparing these pleadings.

[Myer] also respectfully requests hereby that this Court award him the immediate return of the subject property, costs, appropriate awards for his time, energy, and efforts in partaking of this action, reversal of all decisions of the lower courts, and such other relief as this Court may deem proper.

By reason of the foregoing, [Myer] respectfully requests this Court to grant this Petition for Rehearing or Certification to the Court of Appeal.

Dated: April 14, 1985.

Respectfully submitted,

Jeremy Myer
Appellant, In Pro Per